ARKANSAS SUPREME COURT ADMINISTRATIVE OFFICE OF THE COURTS COURT INTERPRETER SERVICES

Overview of the Criminal Process in Arkansas

An effective interpreter understands the criminal process in which he or she works. Complete knowledge is not required, but a good solid understanding is a must. This article has been designed to guide new interpreters through the criminal process in Arkansas by pointing out four typical stages of a criminal case: the "information", the arraignment, pretrial hearings, and the trial.

The filing of the "information" sets the judicial wheel in motion. After a crime has been committed, law enforcement agencies will notify the prosecuting attorney who, in turn, decides whom to charge with the crime. The prosecuting attorney will file the "information" with the court. This document will start the legal process against the individual named as a suspect of committing the crime in the "information". If it has not already been done, the suspect might then be arrested and "booked" (this is when the suspect is fingerprinted, photographed, etc., also known as "booking"). Soon after the arrest, there is a hearing or a set of hearings known as the arraignment part of the criminal process.

On the day of arraignment, the defendant will be officially informed of the charges against him. The court will also ensure that the defendant is properly informed of his rights. Some of his rights include the right to a jury trial, the right to remain silent, the right against double jeopardy (being prosecuted twice for the same offense), and the right to counsel (lawyer). The defendant will have the option to hire his own attorney, to be represented by a public defender, or proceed *pro se* (on his own). Finally, the judge will ask the defendant to enter a plea of either "not guilty", "guilty", or "nolo contendere" (the defendant will not dispute the charges against him). If the defendant pleads "guilty" or "nolo contendere", there will be no trial and sentence will be imposed. But if the defendant pleads "not guilty", a pre-trial date will be set.

Pre-trials, as the name implies, are designed to discuss preliminary matters or hearings before the trial. On pre-trials, a number of things might be brought before the court. For example, there may be a hearing to suppress (exclude) evidence, or a hearing to reduce bond if the defendant is still in jail. Also, this time will be used to discuss any plea bargains the prosecutors might have made to the defendant.

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The defendant might waive (give up) his right to a jury trial by pleading guilty or by choosing a bench trial. In a bench trial, the judge decides the case, whereas in a jury trial, the jury decides the verdict of the case. If the parties do not reach an agreement, then the case will be set for trial.

One of the first things that will take place on the day of the trial is the *voir dire*. The purpose of *voir dire* is to determine the qualifications of jurors. The qualification of jurors can be challenged in two ways. First, if a juror is biased toward one of the parties involved in the case, or has an interest in the outcome of the case, that juror can be challenged for cause. Second, if an attorney believes that a juror may not be sympathetic toward his side, that juror can be disqualified from the jury by what is called a peremptory challenge. The number of jurors challenged by this means is limited.

In a criminal case, the prosecutor has the burden of proof. In order to prove that the allegations are true, the prosecutor will use, among other things, the testimony of several witnesses. Evidence from witnesses is presented as they respond to questions asked by lawyers. As lawyers question the witnesses, they must do it according to certain rules. If those rules are not followed, the opposing lawyer has the option to object. An objection might be sustained (accepted), or denied (rejected) by the judge. Common objections include, hearsay (evidence based on what the witness heard, not on what he knows), asked and answered, leading, argumentative, and answer not responsive. Once all the evidence is presented, the jury will be instructed on the law and will be asked to deliberate. Jurors decide if the defendant is guilty or not guilty. If the defendant is found to be not guilty, he is acquitted (set free). A hung jury is jury that cannot decide on a verdict.

An interpreter with a general knowledge of the criminal process in Arkansas will be able to provide interpretations in their context according to what stage of the criminal process the interpretation takes place.

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Additional Facts about the Criminal System in Arkansas

There could be a hearing to determine if there is probable cause (enough evidence, to officially charge the individual with committing the crime). If there is, the judge will set a bail amount; the defendant will have the opportunity to deposit that amount with the court in order to be temporarily released from jail. The court will retain the bail as an assurance that the defendant will appear for future court dates. If the defendant does not appear on future dates, the money will be forfeited and bench warrant will be issued for his arrest.

Arkansas has a "bifurcated" court system, in other words, the plea or verdict phase are separate from the sentencing phase. This is why the jury first decides whether the defendant is guilty or not before deciding what punishment to impose. A judge also can decide to accept someone's guilty plea one day and wait to a later day to impose sentence on that individual (although most of the time this is done the same day).